

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Rayson Rutherford # 180567

Reginald Gallman # 173648

Write the full name of each plaintiff.

No. 18 cv 10706 (LMS)
(To be filled out by Clerk's Office)

Amended

COMPLAINT

(Prisoner)

-against-

1. City of Mt. Vernon; 2. Detective
Sgt. Sean Fegan # D5001; 3.
Detective Emilio Antonini # D111; 4
Robert G. Puff # 2154

Do you want a jury trial?

☒ Yes ☐ No

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☒ Violation of my federal constitutional rights

☐ Other: _____

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

Rayan

First Name

T

Middle Initial

Rutherford

Last Name

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

180567

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

Westchester County Jail

Current Place of Detention

P.O. Box 10

Institutional Address

Valhalla

County, City

New York

State

10595

Zip Code

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

☒ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☐ Convicted and sentenced prisoner

☐ Other: _____

Continued!

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State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☒ Violation of my federal constitutional rights

☐ Other: _____

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

Reginald B Gallman
First Name Middle Initial Last Name

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

173648
Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

Westchester County Jail
Current Place of Detention

P.O. Box 10
Institutional Address

Valhalla New York 10595
County, City State Zip Code

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

- ☒ Pretrial detainee
☐ Civilly committed detainee
☐ Immigration detainee
☐ Convicted and sentenced prisoner
☐ Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

City of Mt. Vernon
 First Name Last Name Shield #
City Hall
 Current Job Title (or other identifying information)
1 Roosevelt Square
 Current Work Address
Mt. Vernon N.Y. 10550
 County, City State Zip Code

Defendant 2:

Sean Fegan DS901
 First Name Last Name Shield #
Detective Sergeant
 Current Job Title (or other identifying information)
2 Roosevelt Square
 Current Work Address
Mt. Vernon NY 10550
 County, City State Zip Code

Defendant 3:

Luigi Antonini D111
 First Name Last Name Shield #
Detective
 Current Job Title (or other identifying information)
2 Roosevelt Square
 Current Work Address
Mt. Vernon NY 10550
 County, City State Zip Code

Defendant 4:

Robert Puff 2154
 First Name Last Name Shield #
Police Officer
 Current Job Title (or other identifying information)
2 Roosevelt Square
 Current Work Address
Mt. Vernon N.Y. 10550
 County, City State Zip Code

See Attached

V. STATEMENT OF CLAIM

Place(s) of occurrence: 145 South 1st Ave apt. 5G Mt. Vernon, N.Y. 10550

Date(s) of occurrence: 3/31/17, 4/01/17

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

These claims surround, excessive force, assault and battery, false imprisonment / false arrest, negligent and/or intentional infliction of emotional distress, inadequate supervision and 1983 claim for municipal liability against Mount Vernon, forth amendment claim for unreasonable search and seizure, sexual abuse and sodomy, and malicious prosecution. On 3/31/17 around midnight at residence 145 South 1st Ave apt. 5G. I was visiting a friend when Mt. Vernon police broke down the door and entered the apartment with their guns drawn. Plaintiff Gallman and myself were in fear of being shot so we got down on the floor where we were handcuffed. Once this was done officer Puff #2154 and Detective Antonini #1111 proceeded to slap, kick, and punch us while we sat on the floor. Det. Antonini in a rage hit plaintiff Gallman multiple times with his forearm. unable to move both

Mr. Gallman and myself sat there helplessly while we were beaten for about 3-10 minutes. Eventually everyone was taken to the living room area so they could do their search of the apartment. At that time apartment owner Michelle Campbell and I made all officers' aware that I Plaintiff Rutherford was only visiting and had no knowledge of anything to do with any criminal activity going on. Yet still I see attached

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

Acute Asthma attack, headaches, lumps in head, swollen face, bruised ribcage, P.T.S.D. emotional distress. Plaintiff Rutherford treated at Mt. Vernon hospital. Plaintiff Gallman was denied medical treatment by Mt. Vernon police.

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

Wherefore, Plaintiff demands relief from defendants for compensatory damages in the amount to be determined by a jury; Punitive damages in an amount to be determined by a jury; costs, interest, and legal fees and such other and further relief as this court may deem just and proper.

Facts, Attached Page 1

brought to the bathroom where Defendant Puff attempted to strip search me. When I refused to comply with the search Det. Antonini was called into the bathroom and both officers together forced me to the floor and forcibly stripped my clothes off of me. Det. Antonini put me in a submission lock putting his knee on my neck very heavily and locking my arm behind my back to the point I could not breathe and to where I thought my arm would break. While this was going on Officer Puff violently stuck his fingers in to my rectum multiple times. It was very painful so I kept moving and each time P.O. Puff would do it over saying: "stop moving you're making it longer". When nothing was found both officers let me up and I

Facts: Page 2

got dressed. When I left out the bathroom I complained about what had just happen to Det. Sgt. Fegan and his response was u stop crying its called a cavity search its totally legal. Furthermore Mt. vernon Police have a history and custom of doing illegal strip and cavity searches. They believe that nothing will happen to them and that they'll get away with it. The city of Mt. vernon fails to train their officers properly. cited below are other cases of illegal strip searches or misconduct by Mt. vernon Police:

- Flores v. city of Mt. vernon
- Green v. city of Mt. vernon
- Scott v. city of Mt. vernon
- Bancroft v. city of Mt. vernon
- Lynch v. city of Mt. vernon
- Lewis v. city of Mt. vernon

Facts: Page 3

Moreover, apartment owner michelle Campbell surrendered drugs to an officer from off her person and told them that she held sole Possession of what she gave them and that everyone else should be let go. However Mt. vernon Police still carried me and others to the Police station where I was ~~striped~~ strip searched again then charged with criminal Possession of a controlled substance in the third degree. I was arraigned the following day and remanded to the westchester County Jail. I was released around two weeks later then ultimately charges were dismissed on 9/28/17. Since that incident I've been experiencing Post traumatic stress disorder and emotional distress.

V. Facts Continued: Gullman ①

I Reginald Gullman, my claim stems from the Mt. Vernon Police Department using violent and excessive force against me while executing a search warrant at my Aunt's house

"Michelle Campbell" Officer Antonini walked into the apartment and began to brutally beat me with open and closed fists. In a very agitated state, Officer Antonini hit me with his gun 3 to 4 times stating: "You think your fucking sick, I'll get the last laugh you stupid nigger!" Officer Antonini was acting out of anger and retaliation. Mad at the fact I would not become a confidential informant and furnish or provide him with information about criminal activity. After this we were brought into the living room then strip searched in the bathroom one by one myself and others,

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS


By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

<u>2/1/19</u>		
Dated		Plaintiff's Signature
<u>Rayvon</u>	<u>T</u>	<u>Rutherford</u>
First Name	Middle Initial	Last Name
<u>P.O. Box 10</u>		
Prison Address		
<u>Westchester, Valhalla</u>	<u>New York</u>	<u>10595</u>
County, City	State	Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: 2/5/19

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

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Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

<u>2/1/19</u>		<u>Reginald Gallman</u>
Dated		Plaintiff's Signature
<u>Reginald</u>	<u>Buist</u>	<u>Gallman</u>
First Name	Middle Initial	Last Name
<u>Westchester county JAIL P.O. 10 10595</u>		
Prison Address		
<u>Westchester</u>	<u>N.Y.</u>	<u>10595</u>
County, City	State	Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: 2/5/19

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Rayvan Rutherford # 180567

Reginald Gullman # 173648

(List the name(s) of the plaintiff(s)/petitioner(s).)

18 Civ. 10706 (KMK) (LMS)

- against -

AFFIRMATION OF SERVICE

City of Mt. Vernon, et al.

(List the name(s) of the defendant(s)/respondent(s).)

I, (print your name) Rayvan Rutherford, declare under penalty of perjury that I served a copy of the attached (list the names of the documents you served): First Amended Complaint

upon all other parties in this case by (state how you served the documents, for example, hand delivery, mail, overnight express) Regular U.S. Mail to the following persons (list the names and addresses of the people you served): Steven J. Bushnell, Esq., 399 Knollwood Road, Suite 220 White Plains, New York 10603

on (date you served the document(s)) 2/5/19

2/5/19
Dated

Rayvan Rutherford
Signature

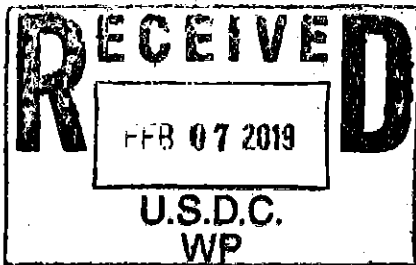
P.O. Box 10
Address

Valhalla, N.Y.
City, State

10595
Zip

Telephone Number

E-Mail Address



Reyon Rutland #180567
P.O. Box 10
Valhalla, New York 10595



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Process in take unit

Clerk of Court
United States District Court
Southern District of New York
300 Wall Street
White Plains, New York 10601

